

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>			1. CONTRACT ID CODE		PAGE 1 OF 5 PAGES		
2. AMENDMENT/MODIFICATION NO. A002		3. EFFECTIVE DATE 9/15/08		4. REQUISITION/PURCHASE REQ. NO.		5. PROJECT NO. (If applicable) WY HPP 4-1 (5)	
6. ISSUED BY CODE Federal Highway Administration Attention: Brenda McGehee 12300 W. Dakota Avenue, Suite 360 Lakewood, CO 80228		7. ADMINISTERED BY (If other than Item 6) CODE					
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)				(✓)			9A. AMENDMENT OF SOLICITATION NO.  DTFH68-08-B-00023
				✓			9B. DATED (SEE ITEM 11) September 9, 2008
							10A. MODIFICATION OF CONTRACT/ORDER NO.
							10B. DATED (SEE ITEM 13)
CODE		FACILITY CODE					
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>							
<input type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended, <input checked="" type="checkbox"/> is not extended.							
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning <u>1</u> copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.							
12. ACCOUNTING AND APPROPRIATION DATA (If required)							
<b>13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</b>							
<input checked="" type="checkbox"/> A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
<input type="checkbox"/> B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).							
<input type="checkbox"/> C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:							
<input type="checkbox"/> D. OTHER (Specify type of modification and authority)							
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) CHANGES TO INVITATION FOR BID  Remove Pages I-23 and I-25 and replace with new Pages I-23 and I-25 bearing revision date 9/15/08. Corrections to Asphalt Cement and Fuel Price Adjustment Provisions for Schedule A, Options X and Z.  Remove Pages I-104 and I-106 and replace with new Pages I-104 and I-106 bearing revision date 9/15/08. Corrections to Asphalt Cement and Fuel Price Adjustment Provisions for Option Y.  <b>**Failure to acknowledge this amendment by the designated date and hour specified in the solicitation may result in rejection of your bid.</b>  Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
15B. CONTRACTOR/OFFEROR		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA		16C. DATE SIGNED	
(Signature of person authorized to sign)				BY (Signature of Contracting Officer)			

**Section 109. - MEASUREMENT AND PAYMENT****109.06 Pricing of Adjustments** Add the following:**ASPHALT CEMENT PRICE ADJUSTMENT PROVISION**

**GENERAL** The Asphalt Cement Price Adjustment Provision contained herein provides for a price adjustment in the form of payment to the Contractor or a rebate to the Government for fluctuations in the cost of asphalt cement consumed in the performance of applicable construction work for *Beartooth Highway*. The price adjustment provisions are applicable only to the asphalt cement, as defined in Section 702.01, and incorporated in the following eligible contract pay items:

- 40101 Superpave pavement

The price adjustment provisions are also applicable to these eligible pay items when the Government adds extra work to the Contract.

The provision will remain in effect throughout the duration of the contract. Enactment of the Asphalt Cement Price Adjustment Provision will only be considered when the **increase or decrease** in the price of asphalt cement as defined herein exceeds 10 percent.

The Asphalt Cement Price Adjustment Provision is intended to reduce but not eliminate the cost effects of price uncertainty to the Contractor and the Government for asphalt cement used in the construction of this contract. It provides for sharing by the Government in a portion of the Contractor's risk, which could result from unusual price fluctuations. The provision is not intended to compensate the Contractor for normal day-to-day fluctuations and seasonal changes or to serve as a guarantee of full compensation for asphalt cement price fluctuations.

**PRICE INDEXES** The Government will post a monthly performance price index at [www.cflhd.gov/procurement/construction/price-indexes/](http://www.cflhd.gov/procurement/construction/price-indexes/) for asphalt cement using price data obtained from Poten and Partners, Inc. (PPI), which publishes a weekly report (Asphalt Weekly Monitor) on high and low selling prices for states in five regions throughout the United States including the East Coast/Northeast, the Mid-Continent/Midwest, the Gulf Coast/Mid South, the Rocky Mountains and the West Coast/Northwest. Weekly high and low selling price data reported for Rocky Mountains – ~~Wyoming and Montana~~ will be averaged and used to establish a base price index, BPI, for this project and a monthly performance price index, MPPI, for the duration of the contract. These indexes are defined as follows:

- **BASE PRICE INDEX** The base price index, BPI, is the price index posted by the Government as determined by arithmetic average, as specified above, shown in the four weekly publications immediately preceding the bid opening. The calculated BPI will be applicable to both Schedule A and all options included in the contract. It is as follows:

BASE PRICE INDEX (BPI) FOR ASPHALT CEMENT  
PER SHORT TON (TON) OR PER METRIC TON = \$ \_\_\_\_\_

No price adjustments will be made for work performed beyond the Government-approved Contract completion date.

The maximum allowable monthly and final price adjustment to the Contractor or rebate to the Government is limited to a (MPPI/BPI) ratio of 1.6 and 0.4, respectively.

### FUEL PRICE ADJUSTMENT PROVISION

**GENERAL** The Fuel Price Adjustment Provision contained herein provides for a price adjustment in the form of payment to the Contractor or a rebate to the Government for fluctuations in the cost of ultra low sulfur No. 2 diesel fuel consumed in the performance of applicable construction work for *Beartooth Highway*. The price adjustment provisions are applicable only to contract items listed as eligible pay items in Table 1 below, if gasoline and/or diesel are used as the primary fuel in the production of the affected items. The price adjustment provisions are also applicable to these eligible pay items when the Government adds extra work to the Contract.

The provision will remain in effect throughout the duration of the contract. Enactment of the Fuel Price Adjustment Provision will only be considered when the **increase or decrease** in the price of motor fuel as defined herein exceeds 10 percent.

The Fuel Price Adjustment Provision is intended to reduce but not eliminate the cost effects of price uncertainty to the Contractor and the Government for motor fuel used in the construction of this contract. It provides for sharing by the Government in a portion of the Contractor's risk, which could result from unusual price fluctuations. The provision is not intended to compensate the Contractor for normal day-to-day fluctuations and seasonal changes or to serve as a guarantee of full compensation for motor fuel price fluctuations

**PRICE INDEXES** The Government will post a monthly performance price index at [www.cflhd.gov/procurement/construction/price-indexes/](http://www.cflhd.gov/procurement/construction/price-indexes/) for Gross Ultra Low Sulfur, No. 2 Diesel Fuel using price data obtained from the Oil Price Information Service (OPIS), which publishes a weekly report on gasoline and distillate reseller prices for major cities throughout the United States. The OPIS 5-Day Newsletter average rack price reported ~~to~~ for the Rack City of Billings, MT will be averaged and used to establish a base price index, BPI, for this project and a monthly performance price index, MPPI, for the duration of the contract. These indexes are defined as follows:

- **BASE PRICE INDEX** The base price index, BPI, is the price index posted by the Government as determined by arithmetic average, as specified above, shown in the four weekly publications immediately preceding the bid opening. It is as follows:

BASE PRICE INDEX (BPI) FOR ULTRA LOW SULFUR, NO. 2 DIESEL FUEL  
PER GALLON = \$\_\_\_\_\_

data obtained from Poten and Partners, Inc. (PPI), which publishes a weekly report (Asphalt Weekly Monitor) on high and low selling prices for states in five regions throughout the United States including the East Coast/Northeast, the Mid-Continent/Midwest, the Gulf Coast/Mid South, the Rocky Mountains and the West Coast/Northwest. Weekly high and low selling price data reported for Rocky Mountains – ~~Wyoming and Montana~~ will be averaged and used to establish a base price index, BPI, for this project and a monthly performance price index, MPPI, for the duration of the contract. These indexes are defined as follows:

- **BASE PRICE INDEX** The base price index, BPI, is the price index posted by the Government as determined by arithmetic average, as specified above, shown in the four weekly publications immediately preceding the bid opening. It is as follows:

BASE PRICE INDEX (BPI) FOR ASPHALT CEMENT  
PER SHORT TON (TON) OR PER METRIC TON = \$ \_\_\_\_\_

- **MONTHLY PERFORMANCE PRICE INDEX** The monthly performance price index, MPPI, is the monthly price index at the time of performance of applicable work as determined by arithmetic average, as specified above, shown in the four weekly publications issued prior to the last Wednesday of the month (i.e. the monthly performance price index during which asphalt cement is used in the performance of applicable construction work).

**PRICE ADJUSTMENTS** Price adjustments are calculated by the Government for average conditions and are not intended to reflect the Contractor's actual purchase price. The ratio of the monthly performance price index and the base price index (MPPI/BPI) is calculated and used to determine price adjustments as follows:

- **No Price Adjustment** – When the ratio MPPI/BPI falls within the range of 0.90 to 1.10, no price adjustment will be made for any asphalt cement used in construction work performed during the relevant month.
- **Government Rebate** – When the ratio MPPI/BPI is calculated to be less than 0.90, the Government is due a rebate determined in accordance with the following formula:

$$\text{Government Rebate} = [0.90 - (\text{MPPI/BPI})] (\text{BPI}) (Q)$$

- **Contractor Payment** - When the ratio MPPI/BPI is calculated to be greater than 1.10, the Contractor is due additional payment determined in accordance with the following formula:

$$\text{Contractor Payment} = [(\text{MPPI/BPI}) - 1.10] (\text{BPI}) (Q)$$

the Contractor for normal day-to-day fluctuations and seasonal changes or to serve as a guarantee of full compensation for motor fuel price fluctuations

**PRICE INDEXES** The Government will post a monthly performance price index at <http://www.cflhd.gov/procurement/construction/price-indexes/> for Gross Ultra Low Sulfur, No. 2 Diesel Fuel using price data obtained from the Oil Price Information Service (OPIS), which publishes a weekly report on gasoline and distillate reseller prices for major cities in five regions throughout the United States. The OPIS 5-Day Newsletter average rack price reported ~~to~~ for the Rack City of Billings, MT will be averaged and used to establish a base price index, BPI, for this project and a monthly performance price index, MPPI, for the duration of the contract. These indexes are defined as follows:

- **BASE PRICE INDEX** The base price index, BPI, is the price index posted by the Government as determined by arithmetic average, as specified above, shown in the four weekly publications immediately preceding the bid opening. It is as follows:

BASE PRICE INDEX (BPI) FOR LOW SULFUR, NO. 2 DIESEL FUEL  
PER GALLON = \$\_\_\_\_\_

- **MONTHLY PERFORMANCE PRICE INDEX** The monthly performance price index, MPPI, is the monthly price index at the time of performance of applicable work as determined by arithmetic average, as specified above, shown in the four weekly publications issued prior to the last Wednesday of the month (i.e. the monthly performance price index during which motor fuel is consumed in the performance of applicable construction work).

**PRICE ADJUSTMENTS** Price adjustments are calculated by the Government for average conditions and are not intended to reflect the Contractor's actual purchase price. The ratio of the monthly performance price index and the base price index (MPPI/BPI) is calculated and used to determine price adjustments for eligible pay items as follows:

- **No Price Adjustment** – When the ratio MPPI/BPI falls within the range of 0.90 to 1.10, no price adjustment will be made for any motor fuel consumed in construction work performed during the relevant month.
- **Government Rebate** – When the ratio MPPI/BPI is calculated to be less than 0.90, the Government is due a rebate determined in accordance with the following formula:

Government Rebate =  $[0.90 - (MPPI/BPI)] (BPI) (Q) (FUF)$

- **Contractor Payment** - When the ratio MPPI/BPI is calculated to be greater than 1.10, the Contractor is due additional payment determined in accordance with the following formula:

Contractor Payment =  $[(MPPI/BPI) - 1.10] (BPI) (Q) (FUF)$